

(R-1.102-3/05 Pub.605)

FORM 9-4

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Practitioner's Docket No. END920010025US1

DEC 22 2005 **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Yesim Erke
Application No.: 09/879,677 Group No.: 3627
Filed: 06/12/2001 Examiner: Floroan M. Zeender
For: METHOD OF DETERMINING INVENTORY LEVELS

☐ Patent No.: _____ Issue Date: _____
Reexamination No.: _____

*NOTE: Preferably also insert inventor's name and invention title.

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**TERMINAL DISCLAIMER TO OBVIATE
A DOUBLE PATENTING REJECTION (37 C.F.R. § 1.321(c))**

Identification of Person(s) Making This Disclaimer

I, John R. Pivnichny
(type or print names of all inventors or assigns or name of attorney signing disclaimer)
(a) represent that I am
☐ an inventor (applicant) of this invention.
☒ an assignee of this invention.

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*
(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

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37 C.F.R. § 1.8(a)
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TRANSMISSION

☒ facsimile transmitted to the Patent and Trademark Office, (703) 571-273-8300

Colleen Bulman
Signature

Date: 12/22/05

Colleen Bulman
(type or print name of person certifying)

* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

(Terminal Disclaimer to Obviate a Double Patenting Rejection [9-4]-page 1 of 5)

WARNING: "If the patent or patent application is assigned to an organization, such as a corporation, partnership, university, [g]overnment agency or similar entity, and the disclaimer is signed by the assignee, the assignee must comply with § 3.73(b)." Notice of Oct. 15, 1993, 1156 O.G. 54-61 at 56, § 1490, M.P.E.P., 7th Edition.

☐ a representative authorized to sign on behalf of the assignee identified below.

☐ A statement under 37 C.F.R. § 3.73(b) is attached.

WARNING: See the above "WARNING."

☒ the attorney of record for this invention.

NOTE: The rules "permit an attorney or agent of record to sign a terminal disclaimer without the need to comply with § 3.73(b)." Notice of Oct. 15, 1993, 1156 O.G. 54-61, at 56. See also § 1490, M.P.E.P., 7th Edition.

IDENTITY OF ASSIGNEE AND TITLE OF DISCLAIMER (if applicable)

The assignee is

Name of assignee International Business Machines Corporation

Address of assignee New Orchard Road

Armonk, NY 10504

Title of disclaimant authorized to sign on behalf of assignee _____

Consulting Patent Agent

EXTENT OF DISCLAIMANT'S INTEREST

The extent of the interest in this invention that the disclaimant owns is:

☒ the whole of this invention.

☐ a sectional interest in this invention, as follows:

NOTE: Disclaimers from the whole interest must be filed.

(state the exact interest of the disclaimant)

The disclaimant(s) is/are:

☐ the applicant(s)

☒ the assignee(s)

(Terminal Disclaimer to Obviate a Double Patenting Rejection [9-4]—page 2 of 5)

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RECORDAL OF ASSIGNMENT IN PTO

(if applicable)

☒ The assignment was recorded on 06/12/2001

Reel 011906

Frame 0492

☐ Authorization for recordal of the assignment is separately attached.

☐ A separate ☐ "ASSIGNMENT (DOCUMENT) COVER SHEET" or
☐ FORM PTO 1595 is also attached.

ESTABLISHING RIGHT OF ASSIGNEE TO TAKE ACTION

(if applicable)

☐ Attached is a STATEMENT UNDER 37 C.F.R. § 3.73(b) establishing the right of the assignee to take action in this case.

NOTE: Insert the appropriate page 3.

(Terminal Disclaimer to Obviate a Double Patenting Rejection—(Provisional Obviousness-Type Double Patenting Rejection Over A Pending Application) [9-4]— page 3 of 5)

(Rel.102-3/05 Pub.605)

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DISCLAIMER
(Obviousness-Type Double Patenting Rejection Over A Prior Patent)

Petitioner(s) hereby disclaims, except as provided below, the terminal part of any patent granted on the instant application, which would extend beyond the expiration date of Patent No. 5,946,662 as presently shortened by any terminal disclaimer. Petitioner(s) hereby agree(s) that any patent so granted on the instant application shall be enforceable only for and during such period that it and the above-listed patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors, or assigns.

In making the above disclaimer, disclaimant does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of the patent forming the basis of the double patenting rejection, namely, Patent No.: 5,946,662 as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

DISCLAIMER FEE (37 C.F.R. § 1.20(d))

- ☒ Other than a small entity — fee \$130.00
- ☐ Small entity — fee \$65.00
- ☐ Small entity statement attached
- ☐ Small entity statement already filed
- ☐ in patent application _____ / _____
- on _____ (Date)

FEE PAYMENT

- ☐ Fee already paid.
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- ☐ A duplicate of this paper is attached.

Date: 12/22/05

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Signature of disclaimant

John Pivnichny

SIGNATURE OF PRACTITIONER OF RECORD

John R. Pivnichny

(type or print name of practitioner)

International Business Machines Corporation

P.O. Address

1701 North Street
Endicott, NY 13760

(Terminal Disclaimer to Obviate a Double Patenting Rejection [9-4]—page 5 of 5)